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by the statute within which appeals may be taken or bills to review filed, they are without remedy.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 501.]

18. Partition (§ 73*)—Effect of Decree—Nonresidents—Statute.

When the parties interested in land sought to be partitioned have been proceeded against by legal methods, there is no difference between the conclusive effect of the decree on residents and nonresidents, except that the latter are given three years, by Code 1904, § 3233, in which to have the case reheard and any injustice corrected.

19. Action (§ 57 (2)*)—Consolidation of Causes.—Causes in which the parties, the subject matter, and relief sought are different, are improperly consolidated.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 135; 1 Va.-W. Va. Enc. Dig. 141.]

Appeal from Circuit Court, Brunswick County.

Suit by W. H. Johnson and another against J. L. Merritt and others. From decree for defendants, plaintiffs appeal. Affirmed.

Turnbull & Turnbull, of Lawrenceville, *Irby Turnbull*, of Boydton, *Hardway & Cathey*, of Houston, Tex., and *Litton B. Hickman*, of Nashville, Tenn., for appellants.

Buford & Peterson, of Lawrenceville, for appellees.

CHANDLER v. BALTIMORE, C. & A. RY. CO.

June 12, 1919.

[99 S. E. 794.]

1. Judgment (§ 184*)—Motion for Judgment—Procedure.—The procedure by motion for judgment under Code 1904, § 3211, as amended Acts 1916, c. 443, is intended to give plaintiff a simpler, cheaper, and more expeditious mode of procedure than is provided by a regular common-law action and greater laxity has been allowed in the pleadings.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 126; 16 Va.-W. Va. Enc. Dig. 937.]

2. Judgment (§ 184*)—Notice of Motion for Judgment—Sufficiency.—A notice of motion for judgment by shipper against a railroad company, alleging plaintiff delivered a quantity of potatoes for transportation to shipper from Concord, Va., to Pitcairn, Pa., that defendant negligently failed to transport with reasonable dispatch, and that by reason thereof plaintiff sustained damages, held to state sufficiently a cause for recovery, and it is immaterial whether the no-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

tice stated the correct measure of damages or not, since the extent of recovery was to be fixed by evidence.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 128.]

3. Judgment (§ 184*)—On Motion—Notice—Carriage of Goods—Delay in Transportation.—In proceedings by shipper by notice of motion for judgment against a railroad company for damages, where the notice does not show whether any bill of lading was ever issued or not, although the Carmack Amendment (U. S. Comp. St. §§ 8604a, 8604aa) required one, but it appears that consignor was also consignee, and presumably never parted with his title to goods, the statement that they had been sold, taken in conjunction with other allegations of the notice, was no evidence that plaintiff had parted with his title, even if that could affect his right to maintain the action for damages for failure to transport with reasonable dispatch.

Error to Circuit Court, Northampton County.

Proceeding by J. W. Chandler against the Baltimore, Chesapeake & Atlantic Railway Company. Demurrer to notice for judgment sustained and plaintiff assigns error. Reversed.

Mapp & Mapp, of Accomac, for plaintiff in error.

Stewart K. Powell, of Onancock, and *George R. Allen*, of Philadelphia, Pa., for defendant in error.

BROOKS *v.* CLINTSMAN.

[100 S. E. 394.]

Gifts (§ 25*)—Parol Gifts of Land Not Enforceable.—The history and express purpose of Code 1904, § 2413, providing that no estate in lands for a term of more than five years shall be conveyed unless by deed or will, discloses a legislative policy to deny the right to enforce parol gifts of such estates.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 717; 17 Va.-W. Va. Enc. Dig. 457.]

On petition for rehearing. Petition denied, and former determination upheld.

For former opinion, see 98 S. E. 742.

BLIZZARD et al. *v.* SALYER et al.

Sept. 17, 1919.

[100 S. E. 454.]

1. Vendor and Purchaser (§ 220*)—Unrecorded Conveyance Ineffective against Bona Fide Purchaser.—To be protected by Code 1904,

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.